**HON'BLE SRI JUSTICE R.SUBHASH REDDY**

**WRIT PETITION NO : 20606 of 2007**

**Dated 19th November, 2007**

Between

P. Satish Reddy

…Petitioner

and

The Commissioner,
Prohibition & Excise, at Nampally,
Hyderbad, and, ors

…Respondents.

**THE HON'BLE MR JUSTICE R.SUBHASH REDDY**

**WRIT PETITION NO : 20606 of 2007**

**ORDER:**

The petitioner, an existing licence holder in Form-2B to run Bar and Restaurant, seeks Writ of Mandamus to declare the action of the first respondent in considering the proposal for grant of new licence in Form.2B in favour of the fourth respondent to establish a Bar shop in the premises bearing H.No.1-3-89, situate in Main Road of Kazipet in Warangal District without considering his objections dated 24-9-2007 as illegal and arbitrary.

Grant of licence under 2-B is governed by statutory Rules, known as Andhra Pradesh Excise (Grant of Licence of selling by Bar and Conditions of Licence) Rules, 2005 framed under Section 72 of the

Andhra Pradesh Excise Act, 1968. The petitioner is an existing licencee, to run M/s. No.1 Deluxe Restaurant & Bar, situate in H.No.1-3-96, Main Road, Khazipet, Warangal. Initially the petitioner obtained licence in Form 2-B for the year 2006-2007 and the same was renewed for the excise year 2007-2008 and is valid up to 30-6-2008. The fourth respondent also appears to have filed an application for grant of licence to the competent authority and a report is also called for on such application. Coming to know the same, the petitioner has filed objections by way of representation on 24-9-2007 stating that the proposed establishment of shop by the fourth respondent is very near to his shop and the distance in between them is only 13 meters and if licence is granted to the fourth respondent, it will affect his business. It is also the case of the petitioner that rules do not permit establishment of new shop in the middle of the excise year. Learned Counsel for the petitioner relied on Rule 5 of the Andhra Pradesh Excise (Grant of Licence of selling by Bar and Conditions of Licence) Rules, 2005, which reads as follows:

> " 5. Application for Licence:
>
> (1) A person intending to establish a Bar, may submit an application in Form-1A to the Commissioner enclosing a Challan of Rs.1000/- to get prior clearance.
> (2) The Commissioner having due regard to requirement and other factors as he deems fit, may grant prior clearance in form-2A to such of the applicants covered under Sub-Rule (1).
>
> Provided that the grant of prior clearance shall not confer any right on the applicant for grant of licence in Form-2B. The holder shall not claim for any compensation or loss in case licence in Form-2B is not granted."

It is not in dispute that the application filed by the fourth respondent for

grant of licence in Form-2B is at the stage of consideration. From a perusal of the above said rule, there is no such restriction for grant of licence in middle of the excise year. Even with regard to licence in Form2-B, there is no express provision for maintenance of distance from one licencee to another licencee. Though it is submitted by the learned Counsel for the petitioner that there is no requirement for grant of licence in favour of the fourth respondent as much as the shop established by the petitioner is serving the needs of the customers, but however, the same is a matter which requires to be considered by the licensing authority and even before such consideration is done by the competent authority as per the rules, merely because the petitioner has filed objections against the proposed licence to be granted in favour of the fourth respondent, no direction can be issued to consider the objections filed by the petitioner. However, it is made clear that it is open for the competent authority to consider the requirement for issuance of licence in Form-2B on the application submitted by the fourth respondent.

Subject to the above observation, the Writ Petition is dismissed. No order as to costs.

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*JUSTICE R. SUBHASH REDDY*

DATE: 19-11-2007
Msnr.